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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-087]

Steel Propane Cylinders from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 11, 2018.

FOR FURTHER INFORMATION CONTACT: Samuel Brummitt, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-7851.

SUPPLEMENTARY INFORMATION

The Petition

On May 22, 2018, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of steel propane cylinders from the People's Republic of China (China), and antidumping duty (AD) petitions concerning imports of steel propane cylinders from China, Taiwan, and Thailand filed in proper form on behalf of Worthington Industries and Manchester Tank & Equipment Co. (the petitioners).¹ The petitioners are domestic producers of steel propane cylinders.²

¹ See Petitioners' Letter, "Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand: Petition for the Imposition of Antidumping and Countervailing Duties," dated May 22, 2018 (the Petitions). For the purposes of the instant notice, all references to 'the Petition,' herein, refer specifically to the CVD Petition, and all references to "AD Petitions," herein refer specifically to the petitioners filed in the companion AD proceedings.

² See Petition at Volume I at 1-2.

The petitioners amended the scope of the petitioners on May 24, 2018.³ On May 25, 2018, Commerce requested supplemental information pertaining to certain areas of the petition.⁴ The petitioners filed responses to these requests on May 30, 2018.⁵ On May 30, 2018, the petitioners submitted certain revisions to the scope.⁶

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of steel propane cylinders in China and imports of such products are materially injuring, or threatening material injury to, the domestic steel propane cylinders industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the petition is accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the petition on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. We also find that the petitioners demonstrated sufficient industry support with respect to the initiation of this CVD investigation that the petitioners are requesting.⁷

³ See Petitioners' Letter, "Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand: Petitioners' Amendment to Volume I Relating to General Issues," dated May 24, 2018 (Scope Amendment).

⁴ See Department Letter re: Petition for the Imposition of Countervailing Duties on Imports of Steel Propane Cylinders from the People's Republic of China: Supplemental Questions, dated May 25, 2018; and Department Letter re: Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand: Supplemental Questions, dated May 25, 2018 (Petition Supplemental Questions).

⁵ See Petitioners' Letter, "Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand – Petitioners' Supplement to Volume I Relating to General Issues," dated May 30, 2018 (General Issues Supplement); see also Petitioners' Letter, "Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand – Petitioners' Amendment to Volume V Relating to the People's Republic of China Countervailing Duties," dated May 30, 2018 (China CVD Petition Supplement).

⁶ See General Issues Supplement at 11-12.

⁷ See "Determination of Industry Support for the Petition" section, *infra*.

Period of Investigation

Because the petition was filed on May 22, 2018, the period of investigation is January 1, 2017, through December 31, 2017.⁸

Scope of the Investigation

The products covered by this investigation are steel propane cylinders from China. For a full description of the scope of the investigation, *see* the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the petition, Commerce issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the petition is an accurate reflection of the product for which the domestic industry is seeking relief.⁹ As a result of these exchanges, the scope of the petition was modified to clarify the description of merchandise covered by the petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope), including comments on whether it is appropriate to refer to the subject merchandise as "steel *propane* cylinders" (emphasis added) or just as "steel cylinders," given that the petitioners intend to cover all products that meet the physical description of the scope regardless of whether they ultimately contain or transport compressed or liquefied propane gas.¹⁰ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties

⁸ See 19 CFR 351.204(b)(2).

⁹ See Petition Supplemental Questions; *see also* General Issues Supplement at 11-12.

¹⁰ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* General Issues Supplement, at 4 and 8-9. On June 11, 2018, the petitioners filed proposed revisions to the scope language for Commerce's consideration. *See* letter from the petitioners, "Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand – Amended Scope Language," dated June 11, 2018.

prior to the issuance of the preliminary determination. If scope comments include factual information,¹¹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit comments within 20 calendar days from the signature date of this notice. As such, scope comments must be filed by 5:00 p.m. Eastern Time (ET) on July 2, 2018.¹² Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 12, 2018, which is 10 calendar days from the initial comments deadline.¹³

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations, in accordance with the filing requirements, discussed immediately below.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹⁴ An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's

¹¹ See 19 CFR 351.102(b)(21) (defining "factual information").

¹² Because the 20th day is July 1, 2018, a Sunday, the filing deadline is Monday, July 2, 2018.

¹³ See 19 CFR 351.303(b).

¹⁴ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011). See also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx>, and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOC of the receipt of the petition, and provided them the opportunity for consultations.¹⁵ The GOC did not request consultations.¹⁶

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support,

¹⁵ See Department Letter re: Countervailing Duty Petition on Steel Propane Cylinders from the People’s Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition, dated May 23, 2018.

¹⁶ See Memorandum, “Invitation to the Government of the People’s Republic of China for Consultations on the Steel Propane Cylinders Countervailing Duty Petition,” dated June 7, 2018.

the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁷ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁸

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁹ Based on our analysis of the information submitted on the record, we have determined that steel propane cylinders, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.²⁰

¹⁷ See section 771(10) of the Act.

¹⁸ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁹ See Petition at Volume I at 10-12; *see also* General Issues Supplement at 13-18.

²⁰ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Steel Propane Cylinders from the People’s Republic of China (China CVD Initiation Checklist) at Attachment II: Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Steel Propane Cylinders from the People’s Republic of

In determining whether the petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. To establish industry support, the petitioners provided their own production of the domestic like product in 2017.²¹ The petitioners state that there are no other known producers of steel propane cylinders in the United States; therefore, the petition is supported by 100 percent of the U.S. industry.²²

Our review of the data provided in the petition and other information readily available to Commerce indicates that the petitioners have established industry support for the petition.²³ First, the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁴ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product.²⁵ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the

China, Taiwan, and Thailand (Attachment II). This checklist is dated concurrently with this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

²¹ See Petition at Volume I at 3-4 and Exhibit GEN-2.

²² *Id.*, at 3-4; Exhibit GEN-1; and Exhibit GEN-2. For further discussion, see China CVD Initiation Checklist at Attachment II.

²³ *Id.*

²⁴ *Id.*; see also section 702(c)(4)(D) of the Act.

²⁵ See China CVD Initiation Checklist at Attachment II.

petition.²⁶ Accordingly, Commerce determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Commerce finds that the petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting that Commerce initiate.²⁷

Injury Test

Because China is “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁸

The petitioners contend that the industry’s injured condition is illustrated by a significant and increasing volume of imports from the subject countries; the domestic industry’s reduced market share; underselling and price depression or suppression; a negative impact on the domestic industry’s production, shipments, capacity utilization, and financial performance; and

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Petition at Volume I at 13-14 and Exhibit GEN-1.

lost sales and revenues.²⁹ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³⁰

Initiation of CVD Investigation

Based on our examination of the petition, we find that it meets the requirements of section 702 of the Act. We find that there is sufficient information to initiate a CVD investigation on all of the subsidy programs alleged in the petition. Therefore, we are initiating a CVD investigation to determine whether imports of steel propane cylinders from China benefit from countervailable subsidies conferred by the GOC. For a full discussion of the basis for our decision to initiate on each program, see the China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petition named ten companies in China as producers/exporters of steel propane cylinders.³¹ Commerce intends to follow its standard practice for a CVD investigation and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each

²⁹ *Id.*, at 9-25; Exhibit GEN-1; and Exhibits GEN-7 through GEN-15; *see also* General Issues Supplement at 3 and Exhibit GEN-Supp-2.

³⁰ *See* China CVD Initiation Checklist at Attachment III: Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand (Attachment III).

³¹ *See* Petition at Volume I at Exhibit GEN-7.

company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of steel propane cylinders from China during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigation," in the Appendix.

On June 6, 2018, Commerce released CBP data from China under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.³² Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's web site at <http://enforcement.trade.gov/apo>.

All respondent selection comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by Commerce's electronic records system, ACCESS, no later than 5:00 p.m. ET on the date noted above. We intend to make our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the petition was provided to the GOC *via* ACCESS. To the extent

³² See Memorandum, "U.S. Customs Data for Respondent Selection," dated June 6, 2018.

practicable, we will attempt to provide a copy of the public version of the petition to each named exporter as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the petition was filed, whether there is a reasonable indication that imports of steel propane cylinders from China is materially injuring, or threatening material injury to, a U.S. industry.³³ A negative ITC determination will result in the investigation being terminated.³⁴ Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁵ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁶

Time limits for the submission of factual information are addressed in 19 CFR 351.301, which

³³ See section 703(a)(2) of the Act.

³⁴ See section 703(a)(1) of the Act.

³⁵ See 19 CFR 351.301(b).

³⁶ See 19 CFR 351.301(b)(2).

provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁷ Parties must use the certification formats

³⁷ See section 782(b) of the Act.

provided in 19 CFR 351.303(g).³⁸ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: June 11, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

³⁸ See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is steel cylinders for compressed or liquefied propane gas (steel propane cylinders) meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation (USDOT) Specifications 4B, 4BA, or 4BW, or Transport Canada Specification 4BM, 4BAM, or 4BWM, or United Nations pressure receptacle standard ISO 4706. The scope includes steel propane cylinders regardless of whether they have been certified to these specifications before importation. Steel propane cylinders range from 2.5 pound nominal gas capacity (approximate 6 pound water capacity and approximate 4-6 pound tare weight) to 42 pound nominal gas capacity (approximate 100 pound water capacity and approximate 28-32 pound tare weight). Steel propane cylinders have two or fewer ports and may be imported assembled or unassembled (*i.e.*, welded or brazed before or after importation), with or without all components (including collars, valves, gauges, tanks, foot rings, and overfill prevention devices), and coated or uncoated. Also included within the scope are drawn cylinder halves, unfinished propane cylinders, collars, and foot rings for steel propane cylinders.

An “unfinished” or “unassembled” propane cylinder includes drawn cylinder halves that have not been welded into a cylinder, cylinders that have not had flanges welded into the port hole(s), cylinders that are otherwise complete but have not had collars or foot rings welded to them, otherwise complete cylinders without a valve assembly attached, and cylinders that are otherwise complete except for testing, certification, and/or marking.

This investigation also covers steel propane cylinders that meet, are produced to meet, or are certified as meeting, other U.S. or Canadian government, international, or industry standards (including, for example, American Society of Mechanical Engineers (ASME), or American National Standard Institute (ANSI)), if they also meet, are produced to meet, or are certified as meeting USDOT Specification 4B, 4BA, or 4BW, or Transport Canada Specification 4BM, 4BAM, or 4BWM, or a United Nations pressure receptacle standard ISO 4706.

Subject merchandise also includes steel propane cylinders that have been further processed in a third country, including but not limited to, attachment of collars, foot rings, or handles by welding or brazing, heat treatment, painting, testing, certification, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope steel propane cylinders.

Specifically excluded are seamless steel propane cylinders and propane cylinders made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight), aluminum, or composite fiber material. Composite fiber material is material consisting of the mechanical combination of two components: fiber (typically glass, carbon, or aramid (synthetic polymer)) and a matrix material (typically polymer resin, ceramic, or metallic).

The merchandise subject to this investigation is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United

States (HTSUS). Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.
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